

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

MARY TROUPE, et al.,

Plaintiffs,

v.

HALEY BARBOUR, et al.,

Defendants.

Case No. 3:10-cv-153HTW-LRA

MOTION FOR TRANSFER

The Plaintiffs move this Honorable Court to transfer this case to Judge Tom S. Lee as a related case to *Olivia Y., et al. v. Barbour, et al.* (Civil Action No. 3:04cv251-TSL-JCS) (“*Olivia Y.*”). In support of this motion, the Plaintiffs state the following:

1. Plaintiffs filed *Troupe v. Barbour*¹ on March 10, 2010 on behalf of a proposed class of children under the age of twenty-one with behavioral or emotional disorders and who need intensive home-based and community-based services. *Troupe v. Barbour* seeks declaratory and injunctive relief from Governor Haley Barbour, the Mississippi State Board of Mental Health, the Mississippi Department of Mental Health, and the Mississippi Division of Medicaid.
2. The *Olivia Y.* case, filed in 2004, challenged the care and treatment of children in Mississippi’s foster care system. On March 11, 2005, Judge Lee signed an order certifying a plaintiff class consisting of all children who 1) are in the legal and/or physical custody of the Division of Family and Children’s Services of the Mississippi Department of Human Services

¹ The lawsuit was filed with the lead plaintiff listed as “J.B. and L.P., by and through their next friend, Mary Troupe.” However, the ECF system has listed the case as “Troupe et al. v. Barbour et al.” For clarity and consistency, Plaintiffs will use the case name as it is listed in the ECF system.

(“DFCS”); or 2) are at risk of being abused and neglected and about whom DFCS has received a report of neglect or abuse. *Olivia Y.* sought and received relief from DFCS. Among many other measures, the settlement agreement requires DFCS to secure therapeutic and rehabilitative services to children in the foster care system. Judge Lee is continuing to oversee the implementation of the remedy that he ordered as a result of the settlement agreement.

3. The proposed class in *Troupe v. Barbour* includes youth who are also in the custody of DFCS, and are therefore *Olivia Y.* class members. In fact, two of the named plaintiffs in *Troupe v. Barbour* are in the legal custody of DFCS.

4. Given that the proposed class in *Troupe v. Barbour* includes children covered by the *Olivia Y.* settlement agreement, and that the *Olivia Y.* settlement agreement contains a provision for mental health and therapeutic services, the two cases are related. *Troupe v. Barbour* involves a broader class of children and seeks broader relief from different defendants. Nonetheless, the cases are related due to overlapping class members with mental health needs.

5. Moreover, the plaintiffs in *Olivia Y.* have filed a motion to intervene in the present case. While the *Troupe v. Barbour* plaintiffs do not support intervention, the motion demonstrates that the *Olivia Y.* plaintiffs believe that the cases are related and underscores and that it is preferable to assign them to the same Judge.

6. Any relief in *Troupe v. Barbour* should be coordinated with the relief granted by Judge Lee in *Olivia Y.* Assigning both cases to Judge Lee would serve the best interests of all class members as it would ensure that relief granted in *Troupe v. Barbour* is coordinated with the *Olivia Y.* settlement agreement. Accordingly, Plaintiffs move that *Troupe v. Barbour* and *Olivia Y.* be treated

as related cases and that *Troupe v. Barbour* be transferred to Judge Lee so that he can coordinate the two cases.

Respectfully submitted this 17th day of May, 2010.

s/Robert B. McDuff

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CERTIFICATE OF SERVICE

I, Robert B. McDuff, Attorney for the Plaintiffs, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all parties.

This 17th day of May, 2010.

s/Robert B. McDuff
Robert B. McDuff